

To: Chairman Rob Bishop and Representative Gerald Connolly, Speaker's Task Force on Intergovernmental Affairs

From: Parris N. Glendening, President, Smart Growth America's Leadership Institute

Date: May 17, 2018

Re: Hearing on "Restoring the Partnership"

Chairman Bishop and members of the Speaker's Task Force on Intergovernmental Affairs, thank you for the invitation to offer some observations about restoring the partnership in the intergovernmental system. More importantly, thank you for the Speaker's and your attention to this very important issue.

I am pleased to be here with my panel colleagues, some of whom I have worked for over 50 years on the academic study and the practice of intergovernmental relations.

My comments are based on my chapter in the Stenberg and Hamilton book *Intergovernmental Relations in Transition*, and on a panel discussion on this topic just two weeks ago at the University of Maryland, Baltimore. To assist the Task Force and staff I have submitted a copy of the complete chapter as back up testimony.

The American federal system is one of the great contributions to the philosophy and practice of human governance. Over the course of the last 225 years the debates, struggles, and even battles over the federal arrangement have been many. It was only with the emergence of the many New Deal programs of the 1930s designed to overcome the Great Depression that discussion moved from a predominately philosophical, constitutional, and legalistic study of American federalism toward an understanding of policy and process. Questions about how our brand of federalism actually worked, how it could work better, how policy is formulated and implemented, and how we could solve the great challenges of not just our federal arrangement but also and more urgently, the problems facing our nation started to dominate the conversation.

By the 1980s there was a broad array of organizations working to study and to facilitate the operations of the intergovernmental **system**. This included, among others, the White House Office of Intergovernmental Affairs (renamed over time), the Office of Management and Budget's Division of Federal Assistance, the General Accounting Office's Intergovernmental Relations Unit, the House and Senate Subcommittees on Intergovernmental Relations, and offices of intergovernmental relations at almost every major government agency. First among these organizations was the U.S. Advisory Commission on Intergovernmental Relations (ACIR).

The rise and fall of the ACIR (1959 to 1996) reflected the level to which intergovernmental relations was thought of as a system. The real emphasis on intergovernmental discussions and analysis,

coordination, and implementation was mirrored in the vitality and then decline of the ACIR and the many similar organizations in the national government.

It is hard to imagine resolution of major challenges, conflicts, and crises facing this country without having a flexible, innovative, and effective intergovernmental system. Think about the challenges of growing income inequality, major climate disasters, extraordinary infrastructure needs, a broken health system, and an income expenditure system that is totally out of balance. The solutions to many of these “mega challenges” require the resources of our national government through a well functioning intergovernmental system. That is, a system that facilitates communication, coordination, compromise, and partnered program implementation.

During my 31 years in elected office I personally saw the intergovernmental system work — and work well. First elected in 1973 to the Hyattsville City Council, I quickly learned that a town of only 18,000 people in metropolitan area of 5 million meant that Hyattsville’s success is very much dependent on intergovernmental alliances. For 20 years, including 12 as elected County Executive, I helped lead Prince George’s County, MD, where public policy was a series of intergovernmental conversations, compromises and agreements. Most visible was the completion of the Metro subway system in Maryland and Prince George’s County. It was during those years that I actively participated in and led many of the intergovernmental organizations that helped make government successful and effective, including chairing NACo’s Large Urban County Coalition and the National Council of County Executives.

In 1994, I was elected for the first of two terms as Governor of Maryland. As the intergovernmental part of my life grew, there was also a noticeable change. Intergovernmental interactions moved more from collaboration, conciliation, and defensive struggles to being much more combative and frequently very partisan. During this period the ACIR and many similar organizations were either phased out or abruptly ceased existence.

It was in this challenging time for intergovernmental relations that I assumed leadership in a number of national organizations, including Chair of the National Governors Association (2000-2001), President of the Council of State Governments (2001-2003), and a number of more specialized groups such as the Southern Governors Association and the President’s Homeland Security Advisory Council (2002-03), which was chaired by my partner in many intergovernmental activities, Department Secretary and former Pennsylvania Governor Tom Ridge.

I outline this intergovernmental perspective from my more than 30 years in elected office not as a stroll down memory lane but as a framework for understanding why the increasing lack of focus on an intergovernmental system is dangerous and produces very poor policy outcomes. Most importantly, that lack of focus increasingly makes it difficult to implement fundamental changes that are needed to address the biggest problems facing our nation.

In 1977, Mavis Mann Reeves, my co-author of *Pragmatic Federalism*, a widely used college text book on intergovernmental relations, and I wrote:

“... American federalism is pragmatic. We believe that the intergovernmental relations within the system are constantly evolving, problem solving attempts to work out solutions to major problems on an issue-by-issue basis, efforts that produce modifications of the federal and intergovernmental system... As each shift or level or modification of program occurs adjustments are made to accommodate to it, thereby creating more change. The elasticity of

the arrangements helps to maintain the viability of the American system. In other words, it is pragmatic.” (Glendening and Reeves, 1977, vii)

Today, 40 years later, that level of optimism no longer exists. Instead of being pragmatic, the federal arrangement has become rigid and inflexible. The intergovernmental system is increasingly weak and unable to address many key issues. Economic disparities continue to increase to dangerous levels as the federal system fails to offer relief on a collective basis, and state and local governments are often unable to do so individually. The revenue system has become so flawed that even the simplest task of road and transit maintenance becomes undoable.

Much of this is the outcome of dramatic changes in the American political process. A portion of the cause of this collapse of the system, however, is the increasing lack of a focus on the intergovernmental system itself. With no ongoing forum for debate or resolution of issues that require intergovernmental consideration, and a lack of serious analysis of the intergovernmental implications of major decisions, it is not surprising that the pragmatic federalism of just a few years ago is rapidly disappearing.

The system can work! I have seen it work both on projects and programs. My most extensive experience in an intergovernmental project was the Woodrow Wilson Bridge reconstruction. The bridge carries roughly 250,000 vehicles per day across the Potomac River as a portion of Interstate 95. As both County Executive and Governor, I was deeply involved in the reconstruction process. The intergovernmental actors included 29 federal agencies working through an Interagency Coordination Group. In addition to the U.S. Department of Transportation and its agencies, entities as diverse as Fish and Wildlife, the Coast Guard, and the Environmental Protection Agency worked with Maryland, Virginia, the District of Columbia, and the impacted local governments.

Meetings were often complicated, tough and personal. Much more was at stake than the normal questions of who was paying what share. The very vision for the future of the Washington area was on the table. Being “Metro ready,” access for pedestrians and bicyclists, and design features like “bump outs” were hotly contested by Maryland and Virginia. Three presidential administrations (George H.W. Bush, Bill Clinton, and George W. Bush), helped move the project through the intergovernmental maze with the help of heads of White House Offices of Intergovernmental Affairs — Jane Plank and Marcia Hale, the latter with us here today.

Another success of the intergovernmental system on the program side was the proposal during the Clinton Administration to make significant changes to the six decades old welfare program. I worked on the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform). Governors, mayors and county executives were all involved in the vigorous debate. Many of the meetings were at the White House with high-level members of the Administration. In the end many people were still unhappy with the legislation. Most, however, would agree that opportunities were offered for meaningful input and that we saw modifications in the final program reflecting many of our concerns.

An adequate level of intergovernmental involvement has been absent from discussion of many key policy issues before us today. Witness the unitary decision-making on environmental rule changes, tax reform, immigration policies and infrastructure proposals to name just a few.

Two weeks ago on a panel on intergovernmental relations with former Maryland Governor Bob Ehrlich, I summed up my comments with this rather dark statement: “The absence of an intergovernmental system, which would facilitate communication, coordination, and compromise combined with the extraordinary negatives of current political debate are bad for policy, bad for our politics, and bad for our country. And this from a normally very optimistic person!”

Moving today to a more optimistic conclusion, I find it necessary to reaffirm a call I made in 2013 to the Council of State Governments — a call for the creation of an intergovernmental relations think tank. It has been recommended in several recent reports that we backfill with advisory panels and organizations that are intergovernmental in nature, or perhaps create a new Advisory Commission on Intergovernmental Relations. While agreeing with the general conclusion, I strongly recommend, however, that such an entity be outside of government — not even a quasi-government agency. It should be an independent, freestanding “think tank” similar to the Cato Institute or the Brookings Institution or based at a major university or a consortium of universities. An alternative location might be at an existing independent organization like the National Academy of Public Administration (NAPA). For full disclosure, I am an elected Fellow of NAPA.

As an eternal optimist, I affirm that we are a strong nation. We will solve our problems. We have collectively faced bigger challenges in the past than those before us now. We faced those challenges and emerged an even stronger country.

We will best do so. However, if we remember that we are a federal system and depend on a well functioning intergovernmental **system**. Thank you.

15 American Federalism without a System of Intergovernmental Relations

Parris N. Glendening

The American federal system is one of the great contributions to the philosophy and practice of human governance. The debates, struggles, and even battles over the federal arrangement have been many. This discourse has continued unabated for more than 225 years, and the temper has surged or lagged depending on the crisis of the moment.

It was only during the 1930s with the emergence of the many New Deal programs designed to overcome the Great Depression that discussion moved from a predominately philosophical, constitutional, legalistic study of American federalism toward an understanding of policy and process. Questions about how our brand of federalism actually worked, how it could work better, how policy was formulated and implemented, and how we could solve the great challenges of not just our federal arrangement but also and more urgently, the problems facing our nation started to dominate the conversations.

Born of these discussions was a brand new field of study: American intergovernmental relations. What emerged was not just a new area of academic study. It was an opportunity to understand both how the system worked and how it could be improved. How could our nation implement policies to address the great issues facing America and still maintain the strength and innovation that came from our constitutional structure?

So extensive did the studies on the process of the intergovernmental system become that recent writings are less likely to start as I did for this essay by noting the contributions of the "American federal system." Instead it is far more common and appropriate to note: "The American intergovernmental system was one of the great inventions of the country's Founding Fathers," as colleagues and I observed in 2013 (Rosenbaum, Glendening, Posner, and Conlan 2013).

This massive body of research and literature on American intergovernmental relations is well referenced by others in this book and elsewhere and need not be repeated here. As important as this great collection of academic research and insights was, the real change was the growth of new institutions, organizations, and centers all set up to make the intergovernmental system better.

By the 1980s there was a broad array of organizations working to study and to facilitate the operations of the intergovernmental system. This included, among others, the White House Office of Intergovernmental Affairs (name differed over the years), the Office of Management and Budget Division of Federal Assistance, the General Accounting Office intergovernmental relations unit, the House and Senate Subcommittees on Intergovernmental Relations, and offices of intergovernmental relations in almost every major government agency. First among these intergovernmental centers was the U.S. Advisory Commission on Intergovernmental Relations (U.S. ACIR). The rise and fall of the ACIR (1959 to 1996) reflected the level to which intergovernmental relations was thought of as a *system*. The real emphasis on intergovernmental discussions and analysis, coordination, and

implementation was mirrored in the vitality and then decline of the ACIR and the many sister organizations in the national government (Kincaid and Stenberg 2011; McDowell 2011).

During this time, more than half of the states organized state commissions on intergovernmental relations, "little ACIRs," as they became known. These commissions not only worked on intergovernmental relations within their state and relations with the federal government but also often met with sister commissions from other states. The U.S. ACIR urged the establishment of a network of state commissions, the first meeting of which was held in Charleston in 1983. The network subsequently met once or twice a year often concurrently with a U.S. ACIR meeting.

Both the network and the state intergovernmental relations commissions shared the fate of the national intergovernmental relations organizations and slowly faded away, often the result of increasingly hostile and very partisan struggles. A 2010 study by the Council of State Governments—a strong supporter of the state commissions and of creating the network—concluded that the "dynamics of intergovernmental relations today, especially at the state and local level, have shifted from what might be described as coordination and cooperation to competition and adversity . . . In such a climate, the value of the perspectives that commissions contribute to the intergovernmental area is greatly diminished" (Wall 2010). Today there are only 10 such commissions still in operation.

This chapter focuses on American federalism without a system of intergovernmental relations. The implications are important and far-reaching. They are important not only from an academic and research perspective. They are far more important from a policy perspective as we try to address the urgent and significant issues confronting us today.

It is hard to imagine resolution of the major challenges, conflicts, and crises facing this country without having a flexible, innovative, and effective intergovernmental system. Think about the following: Growing income inequality and inequity with unacceptable numbers of citizens in real poverty at a time wealth continues to be concentrated at an unprecedented rate; racism and the explosive conflicts between authority and community; and a continuing deterioration of the environment with the certainty of increasingly violent and frequent climate change-produced disasters necessitating unprecedented mitigation and resiliency efforts. To this list could easily be added: the concerns about an immigration system that neither protects fully the security of the country nor insures the future of our newest arrivals; a revenue system that is so dysfunctional it cannot produce the funds to meet the most basic services and instead finds solutions in passing on costs to other levels of government and/or future generations; and the alarming lack of investment in infrastructure to the point that the nation's roads and transit, water and waste water treatment, etc. are rapidly falling behind much of the developed world.

The solutions to many of these "mega challenges" call out for the resources of the national government and nationwide regulation, enforcement, and compliance. In other areas the decentralized work of a smoothly functioning federal system can bring about needed innovation, experimentation, and diversity of policies. In most instances, it will be a combination of both approaches that works best.

Personal Observations on the Disappearance of the Intergovernmental System

The following are personal observations from my roles as an academician, elected official, and non-profit environmentalist about the rise and fall of the focus on an intergovernmental *system*

and some thoughts about a future without that focus. The observations are based not on traditional rigorous academic research but instead on personal real world experiences. The importance lies not in specific events or individual experiences, but rests in understanding what has happened to the study and operation of the intergovernmental system. What are the implications for our federal arrangement and for policy-making and problem-solving in the United States today?

For a young political scientist entering the profession in the late 1960s and early 1970s academia was an exciting place, particularly if you had a deep interest in American federalism and intergovernmental relations, as I did. It was a time of insightful new analysis and models, of serious scholarship that stood on the shoulders of encyclopedic works like W. Brooke Graves' *American Intergovernmental Relations* (Graves 1964) and the emergence of centers and journals devoted to intergovernmental studies. In a burst of enthusiasm, my new-found University of Maryland colleague and co-author, Mavis Mann Reeves, and I proceeded to write a leading textbook on federalism and intergovernmental relations, *Pragmatic Federalism* (Glendening and Reeves 1977) and to author dozens of articles and conference papers on the subject.

The academic research and writing were quickly enhanced and understandings deepened by my appointment and subsequent re-election to the Hyattsville, MD City Council in 1973. Hyattsville is a small (18,000) Washington, DC community nested among dozens of similar municipalities in the suburbs of the nation's capital. I learned quickly that being only 18,000 people in a metropolitan area of 5 million meant that the City's success is very much dependent on intergovernmental alliances.

The following year I was elected to the first of two four-year terms to the Prince George's, MD County Council and then to 12 years as elected County Executive. This extraordinarily diverse county of about 700,000 was in a constant series of intergovernmental conflicts, initiatives, and innovative experiments during these 20 years. Major examples included ending federal court ordered forced "bussing" designed to desegregate the public schools, insuring the completion of the "Metro" subway lines in the County at a time when the federal government and the region appeared to be moving away from finishing construction, and the ongoing violence resulting from the crack cocaine drug wars of the 1980s and the resulting conflict with both federal agencies and the District of Columbia. In many ways, it was a challenge of surviving and prospering when Prince George's, the region's poorest and most racially diverse suburb, was bounded by two of the wealthiest, most prosperous counties in the Nation—Montgomery County, MD and Fairfax County, VA.

It was during those years that I actively participated in and led many of the intergovernmental organizations that helped make government successful and effective. At the national level I served on the National Association of Counties (NACo) Board of Directors and on a number of key task forces and committees. As County Executive I served as Chair of the NACo Large County Coalition and then as President of the National Council of Elected County Executives (now called County Executives of America).

Intergovernmental relations had an overwhelming presence in my daily activities during this period. I not only served as the President of the Maryland Association of Counties (MACo), but also participated actively on many key state commissions, task forces, and study groups, including those on education funding, election law revision, and block grants among others. As an active regional leader, I headed a number of regional organizations such as the Metropolitan Washington Council of Governments, the Chesapeake Bay Commission (3 Bay states, DC and the U.S. Environmental Protection Agency), and the Critical Areas Commission (MD Chesapeake Bay

front local governments and the State). Significant regional environmental collaboration was achieved through careful intergovernmental negotiations among these groups.

In 1994 I was elected for the first of two terms as Governor of Maryland. The intergovernmental part of my life heated up even more. There was, however, a noticeable change. Intergovernmental interactions moved more from collaboration, conciliation, and defensive struggles to being much more conflictual with often-intensive bitter battles, frequently very partisan. During this period the U.S. ACIR and many like organizations were either phased out or abruptly ceased existence.

It was in this very challenging time for intergovernmental relations that I assumed leadership in a number of national organizations. Among these were the most visible players for state-focused intergovernmental relations, such as National Governors' Association (Chair, 2000–2001), Democratic Governors' Association (Chair, 2001–2002), and the Council of State Governments (President, 2001–2003). I was also an active participant in many other more specialized intergovernmental organizations during this time of extraordinary change in the processes of our federal system. Examples include the Southern Governors' Association, the Education Commission of the States, Southern States Energy Board, Southern Regional Education Board and, shifting focus considerably, completed my elected office tenure serving on the President's Homeland Security Advisory Council (2002–2003). The Council was chaired by former Pennsylvania Governor Tom Ridge, my Republican ally in protecting the Chesapeake Bay.

I outline this intergovernmental perspective of my more than 30 years in elected office not as a "stroll down memory lane" but as a framework for understanding why the increasing lack of focus on an intergovernmental system is dangerous and produces very poor policy outcomes. Most importantly, that lack of focus increasingly makes it difficult to implement fundamental changes that are needed to address the biggest problems facing us, most pointedly for this discussion:

- growing economic inequality and inequity;
- crumbling infrastructure; and
- continuing decline of the environment.

Here I offer a link between observations as a young academic student of federalism and intergovernmental relations and a veteran of many intergovernmental struggles. In 1977 Mavis Mann Reeves and I wrote a very optimistic assessment of how our system worked:

We write from a point of view—the view that American federalism is pragmatic. We believe that the intergovernmental relations within the system are constantly evolving, problem-solving attempts to work out solutions to major problems on an issue-by-issue basis, efforts that produce modifications of the federal and intergovernmental system . . . As each shift of level or modification of program occurs adjustments are made to accommodate to it, thereby creating more change. The elasticity of the arrangements helps to maintain the viability of the American system. In other words, it is pragmatic.

(Glendening and Reeves 1977: viii)

Today 40 years later that level of optimism no longer exists. Instead of being pragmatic, the federal arrangement has become rigid and inflexible. The intergovernmental system part of it is increasingly weak and unable to address many key issues. Economic disparities continue to increase to dangerous levels as the federal system fails to offer relief on a collective basis and state and local

governments are often unable to do so individually. The revenue system has become so flawed that even the simplest task of road and transit maintenance becomes undoable.

Much of this is the outcome of dramatic changes in the American political process. A portion of this collapse of the system is the increasing lack of a focus on the intergovernmental *system* itself. With no ongoing forum for debate and resolution of issues that call out for intergovernmental resolution and lacking a serious analysis of the intergovernmental implications of decisions it is not surprising that the pragmatic federalism of just a few years ago is rapidly disappearing.

Where Are We and How Did We Get Here?

From the beginning of the Republic there has been constant debate about the proper roles for the central government and the states. At times, philosophical and constitutional, at other times descriptive and analytical, and almost always highly political and partisan, Americans have argued and fought over the limits of national power and the role of the states. Our governance arrangement moved from the state dominance of the federal system in the early years of the Republic and again during the 1920s to the great centralization of the New Deal in the 1930s. So abrupt were the changes in the 1930s that many observers expressed sentiments similar to scholar and policy leader Luther H. Gulick's assessment:

Is the State the appropriate instrumentality for the discharge of these sovereign functions? The answer is not a matter of conjecture or delicate appraisal. It is a matter of brutal record. The American State is finished. I do not predict that the States will go, but affirm that they have gone.

(Gulick 1933: 420)

Although the focal point of power swung back and forth like a giant centralization/decentralization pendulum, inexorably it moved toward greater central power during the next 50 years. Driven by the pressures of new programs to end the Depression, protect Civil Rights, provide senior health care (Medicare), the demands of a federal urban policy and the War on Poverty, the beginning of national environmental programs, the constant international crises of World War II, the Korean and Vietnam Wars, the emergence of the Cold War and the Nuclear Age, and the ongoing struggle against terrorism, it seemed to many that perhaps Luther Gulick's assertions would be realized.

It was in the 1980s, and continuing into the 1990s, that the constant growth of federal presence and power began to lessen. Limits on national government growth in recent years have moved to the point that historical arguments of "States Rights" are increasingly used to justify opposition to programs as far-ranging as clean air regulations, the Affordable Care Act (Obama Care) or high speed rail construction. Some rhetoric became so heated that in the 2008 presidential campaign candidate Governor Rick Perry gave a near endorsement of Texas leaving the Union.

Discussion of the proper role of different levels of government and which government should have primary concern for a particular function are legitimate and, indeed, expected and healthy for the system. A key concern here, however, is the erosion, in some ways the disappearance, of a focus on the intergovernmental *system*.

Starting with the Reagan Administration, national programs were reduced, eliminated, devolved to states and local governments, or transferred to the private sector. This pace has continued,

even accelerated. As these changes were made most of the mechanisms of the intergovernmental relations *system* were also set aside.

As programs were reduced, ended, or transferred and the research, data centers, and discussion forums were closed, the academic study of intergovernmental relations declined dramatically. This, however, is not the real loss. Far more important is the absence of an ongoing forum or process to discuss intergovernmental issues. As John Kincaid and Carl Stenberg (2011: 158) noted, "Intergovernmental deinstitutionalization occurred across the board during the 1980s and 1990s." In many ways, the intergovernmental part of major crises facing the country today and the programs advanced to resolve them are as great and even more complex than ever.

Three major issues discussed below—the growing economic inequality in the nation, the challenge of meeting our infrastructure needs, and the urgent need to solve or at least mitigate our many environmental crises—are all at their heart intergovernmental issues. Most the current discussions about the resolution of these challengers are totally devoid of any real intergovernmental analysis. Solutions are advanced at one level of government without any serious consideration of the impact on other levels of the federal partnership. Programs and costs are routinely off-loaded to other governments or left to future generations to solve and finance. In many areas no solution is advanced while fingers point to others to blame.

It is almost as if in the heat of policy debates it is temporarily forgotten that America is a federal system and that major policy decisions by one level of government often impact other levels. An increase or decrease in taxes at one level of government is often felt by other parts of the federal system. Cut expenditures to balance budgets and the fiscal offload is quickly felt elsewhere. In some instances like during the Great Recession, private sector job growth was offset by public sector job loss. This offloading is almost always done without deliberate intent or malice. In fact, even worse, it is generally done without analysis or foresight. It is as if other federalism partners were invisible.

In this debate there is no real forum for intergovernmental discussions. There are increasingly few institutions that undertake objective analysis of intergovernmental implications. There is no public voice for the advancement of needed federal and intergovernmental changes.

My over 30 years of elected office give me a reference point to note just how weakened the intergovernmental focus has become. It was not always this way. I recall clearly during my terms as County Executive and Governor there were some really bright spots in intergovernmental leadership at all levels of government, most notably from the White House.

One of the best examples of serious intergovernmental working relationships among officials at all levels was during the Clinton Administration. Clinton sought to prioritize intergovernmental cooperation by revitalizing ACIR, seeking increased funding from Congress, and placing a White House staffer, Marcia Hale, on the Commission (Warshaw 2009). Just three years later Congress eliminated the ACIR, with the President even withholding his prior strong support after disagreements with the Commission over the issue of unfunded mandates (McDowell 1997).

As governor, I worked on the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (welfare reform). Governors, mayors, and county executives were all involved in a vigorous debate over significant changes in the six-decades-old welfare program. Many of the meetings were in the White House with high-level members of the Administration. In the end many people were still unhappy with the legislation. Most, however, would agree that opportunities were offered for meaningful input and that we saw modifications in the final program reflecting

many of our concerns. Such a level of intergovernmental involvement has not been part of the discussion of many of the most important policy issues before us today.

Another example involved the adoption of Executive Order 13132, which prohibited federal agencies from promulgating new regulations unless they provided funds for direct compliance and unless they consulted prior to adoption directly with state and local elected officials or their representatives or their national organizations. On first blush this Executive Order appeared to help state and local governments in the on-going battle against mandates, preemptions, and other excessive actions by the central government. In fact, it was a substantial weakening of a much stronger Executive Order (12612) signed by President Reagan in 1987. After a bitter political battle outlined in Donald Borut's chapter, major modifications were made that, while lessening Reagan's strong state-oriented federalism, still provided some of the protections and processes sought by state and local governments' organizations. I am not certain there was a dramatic change in agency behavior from either executive order nor did they appear to carry through very well to future administrations. At the time, however, they were important statements about state-centered federalism and about intergovernmental cooperation with other federal partners. This vigorous debate and "big picture" view of how the system should operate is largely missing in recent decades.

It was not only programs like welfare reform or processes like Executive Orders 12612 and 13132 that showed an intergovernmental *system* working well and fundamental principles of federalism being debated. The same intergovernmental system was key for number of huge "mega" public work projects in the Washington, DC area—projects that reshaped the future of the nation's capital. Most notable among those were the construction of the Washington Beltway (1961–1964), the "Metro" subway (1969–ongoing), and the reconstruction of the Woodrow Wilson Bridge (1999–2008). These were complicated, multi-billion dollar projects that involved decades of coordination among dozens of local governments, two states, the District of Columbia, and the national government.

As noted earlier, I was involved in struggles at the end of construction of the first stage of the subway to make sure that Prince George's County received its promised lines. My most extensive participation in the intergovernmental side of this type of project, however, was with the Woodrow Wilson Bridge reconstruction. This bridge carries about 250,000 vehicles per day across the Potomac River as part of Interstate 95 linking Maryland and Virginia. It originates on the Maryland side in Prince George's County.

Serious planning, design, and negotiations started in the early 1980s during my first term as County Executive and continued through my first term as Governor until 1999 when construction started. The intergovernmental actors included 29 federal agencies working through an Interagency Coordination Group. In addition to the numerous U.S. Department of Transportation entities, agencies as diverse as Fish and Wildlife, the Coast Guard, and EPA were involved. Also participating were the most impacted local governments (e.g., Prince George's and Alexandria, VA), the two states via their many state agencies, and the District of Columbia.

Meetings were often complicated, tough, and personal. At stake was much more than the normal questions of who was paying what share or route locations. Many other issues that at their heart involved differing visions about the future of the region. Maryland, for example, insisted that the bridge be constructed "Metro ready" (i.e., constructed with extra lanes and to standards that would bear the weight and vibrations for future expansion of the subway system across the bridge to further connect the capital region by rail transit). Maryland further insisted on wide

pedestrian and bike lanes with "bump outs" for walkers and bikers to enjoy the views of the nation's capital and extensive landscaping on the bridge's approaches.

Virginia's two governors during the critical 1994 to 2002 period were strongly opposed to all of those proposals, looking instead to a much more traditional concrete and steel interstate construction that would save several hundred million dollars. Much of the paralysis of the intergovernmental system today is a result of excessive partisanship and ideology. The Woodrow Wilson Bridge project, however, was an example of the system working well on a bipartisan basis. Three presidential administrations (George H. W. Bush, Bill Clinton, and George W. Bush) kept the project moving to completion.

Some of the most interesting conflicts about the bridge overcame expected partisan outcomes. As mentioned above, two Virginia governors tried to block the additional federal funds for what they considered unnecessary "add-on costs." Former Ohio Republican Governor George Voinovich, having been elected to the Senate, was serving as the ranking member of the Appropriations Committee's Subcommittee on Transportation and Housing and Urban Development. I worked with him when he was Chair of the National Governors' Association (NGA), and he was very helpful in securing the additional federal funding even over the objections of his fellow Republican governors. George Voinovich is the only person to date to have served as the Chair of the NGA and President of the National League of Cities, giving him a broad perspective of the importance of having a working intergovernmental system. Today the Woodrow Wilson Bridge stands as a model urban bridge with pedestrian and biker lanes, viewing "bump outs," and ready for a transit line in the future. It is also a model of the intergovernmental relations system functioning.

The same successes were visible on a more horizontal level often without regard to partisan differences. Pennsylvania Republican Governor Tom Ridge, for example, on several occasions supported proposals advanced by Democratic colleagues from Maryland, DC, and the Administrator of the U.S. EPA to protect the Chesapeake Bay over the objections of more conservative Republican governors from Virginia. This reflected added leadership by Governor Ridge considering that Pennsylvania is the only state member of the Chesapeake Bay Commission that is not Bay front.

These two examples of intergovernmental leadership by Senator Voinovich and Governor Ridge demonstrate a working system overcoming partisan differences. Today, the opposite is more often true. An ideological divide and excessive partisan and personal politics have made functioning intergovernmental relations very difficult. Add to this the dismantling of those organizations designed to facilitate a smooth flowing intergovernmental *system*, like ACIR, and we should not be surprised that a "go-it-alone" or "fend-for-yourself" federalism dominates our governance today.

Solving Major Policy Challenges with a Broken Intergovernmental System

There are several very critical and complex issues facing America today. Almost all of these demand intergovernmental discussions and negotiations, intergovernmental solutions, and an effective intergovernmental system for implementation. The challenges of inequality, infrastructure renewal, and environmental protection are very real examples of extreme partisanship, ideology, and major policy differences limiting the effective functioning of an intergovernmental system. Meeting these challenges will mean, of course, a major restructuring of the intergovernmental revenue structure.

Income Inequality

The growing and serious income inequalities in this country matter. This matters because of the growing concentration of wealth and power in a small minority that becomes increasingly isolated geographically and culturally from the rest of society. It has potentially serious repercussions to our political system, our policy-making process and our intergovernmental system.

Any approach to lessen these growing inequalities would have repercussions on our federal system of government. One approach would be to increase taxes on higher incomes. Tax hikes could focus on just the wealthiest or could adjust the graduated structure so that those earning more pay more. Changing the income tax structure would have major impacts on the intergovernmental revenue structure. Many state income tax structures are piggy-backed on the federal income tax structure. State adjustments would need to be made. Also, it would undoubtedly provide more money that could be used for intergovernmental transfers or programs that would affect state and local priorities and service expansions.

Another approach would be to support and expand the many services and safety nets for struggling individuals and families. They include a range of services—public education, housing assistance, low fare transit availability, medical support, childcare, and so on. Some of these “income add-ons” are relatively minor, sporadic, and often not even thought of as a means of lowering income inequalities. Free neighborhood parks and libraries, senior center breakfasts and school lunches, and community mental health or dental centers all are examples of small scale but essential “other sources” of income. From a larger, more systemic, perspective the great importance of “big picture” revenue sources such as social security, Medicare and Medicaid, extended unemployment benefits, or food stamps as major sources of “income” cannot be overlooked and could be adjusted to address the income inequality. Again, most of the services indicated are state and local but would require federal dollars in order to add or expand them.

Adding to the concerns about growing income inequalities is the reduction of revenue resources for what is often called “safety net services.” Most of the changes in other relatively minor safety net services are the result of a localized decision by a governmental or quasi-governmental entity. When the transit agency increases fares 10 cents per trip, or the community college increases tuition by 4 percent, or the local water utility adds a new \$10 a month “distribution fee” to each residential water bill, those most pressed by the growing income inequalities suffer.

These decisions are almost always justified as necessary because “the feds have cut back support for transit,” or “the state reduced support for community colleges,” or “with the sequester pressure on the budget, we can no longer subsidize individual users for luxuries like fishing licenses.” Almost never is the discussion about the increasing inequality impact of these decisions or about the intergovernmental ripple effect that one decision creates. The problem is just “handed off” to another participant in a very complex governmental arrangement. The worker who decides transit is too expensive to get to work or the student who can no longer afford the community college tuition for job required skills are examples of people who drop out of the job market and switch to the unemployment set of supports. The challenge of low-income and of inequality has not been resolved. It has just been transferred to another agency and another level of government.

The third broad resolution of income inequality is to focus on the minimum wage. With the safety net supports and revenues frozen or being reduced and adjustments in the tax structure that would help reduce inequality increasingly unlikely to be approved, it is not surprising that major efforts would focus on changing the wage scale, most particularly the minimum wage.

The federal minimum wage started in 1938 at 25 cents per hour. The whole issue of having a minimum wage has truly been an intergovernmental debate and experiment from the beginning. Massachusetts adopted the first American minimum wage law in 1912, quickly followed by 13 other states and the District of Columbia. The U.S. Supreme Court consistently struck down these and other state and local initiatives as well as a number of federal minimum wage efforts.

The last time the federal wage was increased was in 2009 to \$7.25. This has led to an on-going and very bitter political battle. President Obama made an appeal to the nation in his 2014 *State of the Union* message for an increase in the minimum wage. He noted that in the year since he requested congressional approval of an increase, five states (CA, NY, CT, RI, and NJ) had increased their state minimum wage level. The president's plea to his state and local counterparts was: "to every mayor, governor, state legislator in America, I say, you don't have to wait for Congress to Act; Americans will support you if you take this on" (Wogan 2014). Similar appeals were made almost immediately thereafter directly to the governors at the 2014 National Governors Association dinner at the White House. It was as if the president was advancing a unique version of "go it alone" federalism.

These entreaties produced vigorous debate and interesting actions in the federal system. There are currently 29 states that have minimum wages higher than the federal level. Much of the change is occurring locally, in most cases with minimum wages far greater than the national standard or the state level. Santa Fe and San Francisco in 2003 became the first cities to have their own minimum wage distinct from their states. A steady stream of local governments adopted their own wage standards in following years.

In June 2014 Seattle adopted a phased-in (by 2017) \$15 minimum wage. Los Angeles quickly followed at the same level and other cities (e.g., Chicago and Washington, DC) are rapidly moving in that direction.

In the face of inaction at the national level and in many states, an even more complicated intergovernmental picture has been painted by strategies designed to create a large, multi-jurisdictional area with a higher minimum wage. Led by San Francisco and Oakland, a small group of cities in the South Bay area are coordinating efforts to make the regional local minimum wage \$15 per hour. This effort has popular support and is being approved by city and county councils and by popular referenda. Oakland voters, for example, gave an 81 percent approval endorsement. Other coordinated efforts have even crossed state boundaries. Prince George's and Montgomery Counties, MD joined with the District of Columbia in 2014 to adopt an identical new minimum wage for the three jurisdictions (\$11.50 by 2016 and then indexed for inflation) that, as the *Washington Post* (2013) noted, created "a contiguous region with 2.5 million residents and a minimum wage higher than any of the 50 states."

Even as these local intergovernmental agreements are adopted, a number of states have pushed back against the higher local government minimum wages and related employee benefits. Fifteen states have enacted preemption laws that prohibit local governments from having wage setting powers. Eleven states have preempted local governments from mandating sick days for private employees. These state-local intergovernmental battles have become increasingly bitter.

Infrastructural Renewal

Since the start of the Republic the central government has been involved in and often the leader of efforts to build a truly national infrastructure. While the Founding Fathers viewed a limited

role for the national government in the post-Revolutionary arrangement, they quickly realized the demand for unifying, nation-building infrastructure, or "internal improvements" as it was called then.

The principal of federal support for national infrastructure projects quickly became accepted for an expanding number of investments including lighthouse and harbor improvements, canals, bridges and roads, especially "post roads" to promote the delivery of mail. After the 1830s railroads became a major focal point of federal support, often with major land grants.

Major and historic expansion of federal infrastructure investment occurred under Presidents Franklin Roosevelt, Dwight Eisenhower, and Barack Obama. Roosevelt's New Deal approach was in significant part a massive public works construction undertaking designed to lessen the impact of the Great Depression. The Works Progress Administration (WPA) alone employed more than 8 million Americans, and other alphabet organizations of the 1930s employed millions more. The sheer scope of the WPA projects still staggers the imagination: The Triborough Bridge, LaGuardia Airport, and Lincoln Tunnel in the Northeast; the TVA dams and power distribution system, the Blue Ridge Parkway (NC to VA), and the Overseas Highway in the FL Keys dominated the Southern projects; to the West there was the Hoover Dam, the first freeway in LA, and the Golden Gate Bridge, to name just a few. These were matched with hundreds of schools, courthouses, hospitals, and libraries in communities across the nation.

President Eisenhower, stressing the need for a defense highway system that could rapidly move military personnel and equipment as well as evacuate cities if a nuclear attack threatened, started the Interstate Highway system in 1956. This massive road construction program, almost 50,000 miles, had a dramatic impact on America's post World War II land use development, opening the suburbs and creating a car-dependent society and contributing to the "flight" from many of our largest cities. It is important to note that the Interstate and Defense Highway Act was the beginning of large-scale federal/state/local cost-sharing programs for infrastructure. It became the model for hundreds of infrastructure programs during the following decades.

The Interstate Highway Program, as it evolved over decades, stands as the strongest and most consistent use of a strong intergovernmental *system* for infrastructure investment. While specific projects were often very political, bitterly contested, and the cause of many community and environmental battles, the program used the intergovernmental process for over 50 years investing for billions of dollars in interstate highways, bridges, tunnels, and related projects. There were other major intergovernmental initiatives during this period, e.g., Lyndon Johnson Administration's many urban redevelopment and anti-poverty programs, but none had the consistent intergovernmental administration, magnitude, and impact as the Interstate Highway Program.

The third big burst of federal infrastructure investment was the American Recovery and Reinvestment Act (ARRA) popularly referred to as the Stimulus Program or the Recovery Act proposed by President Obama. This \$787 billion (later revised to \$831 billion) was a Keynesian economic theory response to the Great Recession of 2008. Designed to save jobs, put the unemployed to work, and help state and local governments deal with major fiscal crises, it offered a broad array of relief and stimulus programs. Included were significant tax incentives (\$288 billion), support for Medicaid and other healthcare (\$155 billion), education (\$100 billion), and aid to low income workers and the unemployed (\$82 billion).

Continuing the long history of national government support for infrastructure investment, the Act included \$105 billion for infrastructure. About one-half of that amount went to transportation projects through the very popular Transportation Investment Generating Economic Recovery

(TIGER) grants. Twenty-eight billion dollars was allocated for traditional highway and bridge construction projects. Reflecting changing infrastructure needs, \$18 billion was allocated to support transit, including intercity passenger rail, especially high-speed rail, new transit projects and Amtrak.

The other half of the Act's infrastructure funding went to a broad range of needs: water, sewage, and environment (e.g., rural drinking water and waste disposal projects and hazardous waste cleanup at Superfund sites); government buildings (e.g., child development centers and housing for service members); and energy (e.g., modernize the electrical grid and smart grid and for power transmission system upgrades). Reflecting modern infrastructure needs, there were significant investments for renewable energy, weatherizing low-income homes, biofuel, and solar and wind projects.

With the exception of the 2009 Stimulus program, there has been a major decline in the dollar value of intergovernmental infrastructure investment. Even the 2009 stimulus was advanced as a one-time expenditure to deal with the economic crisis.

With the stimulus program, there was no real intergovernmental discussion as leaders at all levels of government rushed to avoid a "free fall" of the economy. The surprising thing was how little the states and the governors had been involved in structuring the program. It was understood that this was an emergency and there was a great need to act quickly, and yet most of the states received the first hint of how the stimulus would work only at the time of grant application requests.

There are many reasons for the significant decline in national infrastructure investments. Among them was the 2005 "Bridge to Nowhere" controversy concerning the proposed "earmarked" funding for a \$400 million bridge from Ketchikan to Gravina Island, Alaska. The Island's population was about 50 people. This led to a number of anti-earmark efforts in Congress resulting in a general ban on the process by 2010. Not surprisingly the enthusiasm for other capital projects declined sharply after members became unable to direct such funding to their own state or district.

The second big change was the adoption of the Sequester Process (Budget Control Act of 2011). First implemented in 2013 the Act calls for automatic cuts of \$1.2 trillion between 2013 and 2021 to be evenly divided between domestic and defense spending. Exempting large entitlements like Social Security and Medicaid insured a major annual reduction in discretionary spending. Budget cuts ranged between 7.6 percent and 9.6 percent for most agencies. Since capital projects are the easiest to cut without causing long-term agency disruption, many reductions impact infrastructure investment.

Last is the major change in the partisan make up and the political philosophy of Congress. Democrats controlled both Houses in 2009. Republicans held majorities in both chambers by 2015. It was not just a change of party. The new majority is fiscally very conservative, vehemently anti-tax, and strongly committed to reducing the size and cost of the national government. The "low hanging fruit" for budget decisions based on this philosophy are often discretionary intergovernmental infrastructure expenditures. Witness the consistent effort to reduce federal aid for local transit construction and operation.

There are currently calls by the White House for "huge" infrastructure investments but the details are still unclear. It is almost certain that the approach will not be utilizing the intergovernmental system, as the Trump Administration's first budget called for dramatic reductions in infrastructure spending.

Environmental Protection

The focus on protecting our environment is a relatively new governmental function at any level of our federal system. For most of our history it was simply not a public issue. If there was a problem, expectations were that the community acting collectively but not through government, or the private sector including individual landowners would deal with it.

Land conservation and site preservation were the main focus of national environmental protection up until the mid-1960s when national legislation still centered on conservation but gave a much broader interpretation of what "conservation" meant and created more aggressive tools to achieve those ends. Major examples included the Wilderness Preservation Act (1964), the National Wild and Scenic Rivers Act (1968) and the Endangered Species Preservation Act (1966). These laws previewed the much broader and more aggressive environmental legislation of the 1970s.

Environmental protection at the state level largely reflected the federal emphasis on conservation and preservation. For example, in 1885 New York business, sportsmen and conservationists came together to create the first state major forest preserve. Designed to both protect forest and the source of clean water for downstate, 715,000 acres of forestland were permanently preserved. This later became the Adirondacks State Park, serving as a model for similar efforts at the state level, especially in New England and the West. These programs set the scene for much broader state environment programs in the twentieth century.

At the local level the early work for the environment centered on clean drinking water, raw sewage removal, and public health especially disease prevention in overcrowded urban slums. New York City created the first local health department in 1866. The other notable and important local environmental forerunner was the emergence of a major system of urban parks.

This, then, was the state of environmental protection efforts in America for the first 175 years. Noteworthy not just because of the singular focus on conservation, preservation, and parks, but also because most initiatives were done by one level of government with very little help from or interaction with other levels. There was occasional cooperation and some financial support, but for the most part there was no meaningful intergovernmental actions or programs for environmental protection.

The situation changed dramatically in the 1960s and especially the 1970s as a large number of urgent and comprehensive laws gave birth to a very complicated intergovernmental system of environmental regulations and programs. The new environmentalism did not occur in a vacuum. In 1892 naturalist John Muir formed the Sierra Club. That organization experienced phenomenal growth in the 1960s and 1970s, as did the National Wildlife Federation, which was started in 1935. The Sierra Club grew from 230,000 members in 1960 to 819,000 by 1970 (Dictionary of American History 2017). These organizations were joined by dozens of new comers the 1960s and 1970s, e.g. League of Conservation Voters, Friends of the Earth, Environmental Defense Fund, Natural Resources Defense Council, and Greenpeace, among many others. Hundreds of similar advocacy groups sprung up at the state and local level all across the country.

Very quickly the environmental movement shifted from land conservation programs to an urgent focus on pollution, especially chemical pollution of our air, water, and habitat, solid waste disposal, and pesticide poisoning. The latter became a major national concern as a result of the intense and widespread reaction to Rachel Carson's *Silent Spring*. Even pop music focused on these issues. Recall Joni Mitchell's "Big Yellow Taxi": "They paved Paradise, put up a parking

lot" is the most famous line from that song, but her reference to DDT in the song alludes to Carson's book.

With this backdrop the first Earth Day was held April 22, 1970. More than 20 million Americans, marched, protested, held sit-ins and teach-ins, and demanded change in environmental policy and laws. The tumultuous decade ended with widespread coverage of the Love Canal disaster in which a community in Niagara Falls, NY was discovered to have been built on top of a 70 acre landfill of toxic wastes from the 1940s and 1950s causing a range of major health problems for the residents.

The unprecedented focus by the press, especially television, on major environmental disasters helped generate many significant environmental laws and programs in the 1970s that built on those passed in the 1960s. Among the most important were:

- President Richard Nixon created the Environmental Protection Agency (EPA) to enforce environmental laws and regulations (1970).
- The Clean Air Act regulated air emissions and gave the EPA power to set air quality standards (1970).
- The Noise Control Act authorized EPA to regulate noise pollution (1972).
- The Clean Water Act placed a limit on the flow of raw sewage and other pollutants into lakes, rivers and streams and gave the EPA power to set standards and to enforce them (1972).
- The Endangered Species Act empowered the U.S. Fish and Wildlife and the National Marine Fisheries Service to list and protect all endangered species (1973).
- The Safe Drinking Water Act protected drinking water against pollutants (1974).
- The Toxic Substances Control Act (1976) required EPA to track and ban chemicals that pose a threat to the environment or to human health (Hartman undated).

In addition, in 1975 Congress authorized EPA to set standards for tail-pipe emissions to reduce automobile produced air pollution. At the end of this extraordinary 10 years of environmental initiatives Congress created and funded the Superfund program to help clean up hazardous waste sites. As one study of this time of great change noted: "During the decade of the 1970s alone, more than twenty major federal environmental laws were enacted or substantially amended, giving EPA and other federal agencies enormous regulatory responsibilities" (Percival 1995).

In two short decades, environmental protection moved from being largely a single focus issue of land conservation implemented by independent levels of government to being the center of a very controversial, bitterly fought, and constantly changing part of the intergovernmental system. Because environmental protection is so complex EPA has used many different approaches during its almost 50 years of existence.

Many programs were primarily voluntary and incentive driven such as the Coastal Zone Management Act. Education, financial incentives, and cost sharing are all tools used for many EPA programs. The other approach is very much a command-and-control use of regulations often resulting in fines or other penalties. The Clean Air Act and Clean Water Act and those programs designed to protect the public such as the Toxic Substances Control Act rely heavily on regulatory enforcement with penalty potential. Many environmental protection policies rely on concurrent enforcement, such as the Endangered Species Program.

Adding to the challenges of environmental protection in an intergovernmental system is the reality that some issues may be purely local, impacting one state or locality, while others are

nation-wide. Many are regional, requiring the creation of intergovernmental bodies such as the Great Lakes Commission (8 states and 2 associate member Canadian Provinces) or the Chesapeake Bay Commission, (MD, VA, PA, DC, and EPA).

Environmental policies often pit one state or local government against neighboring jurisdictions with the intergovernmental system responding slowly and ineffectively or not at all. West Virginia's mountain top removal for coal mining has both water and air impacts on surrounding states. I recall a conversation with the then Governor of West Virginia and a personal friend about the problem. His response was "Sorry, but in this State coal mining is King." A decade later the efforts for an intergovernmental solution to that problem continue.

The supply of water is an increasing source of inter-jurisdictional disputes. Georgia as an example has been in a long-running legal and political battle with Florida and Alabama about the amount of water Atlanta takes from the Chattahoochee and Flint rivers "posing a threat to the ecological system" of its two neighbors (Atlanta Journal-Constitution 2017). While Georgia recently scored a major legal victory the problem, made increasingly worse by continuing droughts and water consumption by greater Atlanta's sprawling, growing population, is far from over. Other legal and congressional challenges are certain.

The intergovernmental system has been particularly stressed because of the constantly changing politics of environmental protection. State or local governments often side with significant polluters against the EPA or other regulatory agencies. Siding with major local businesses like a large power company or local paper mill, or trying to protect a major polluting industry, such as coal mining or big chicken farming corporations, often pits the combined resources of states and private industry against enforcement. These struggles frequently end up as multi-year court cases that even challenge the constitutional or legal basis of enforcement (Percival 1995).

Changing political philosophies and ideologies have regularly caused great uncertainty for environmental protection efforts. Ronald Reagan as a candidate for President claimed that President Carter's clean air regulations were responsible for closing many plants and coal mines. Referring to the Clean Air Act of 1970, candidate Reagan speaking in Youngstown, Ohio said: "these 1970 rules have helped force factories to shut down and cost workers their jobs . . . and they will certainly slow the use of coal" (Washington Post 1980).

His appointee as EPA Administrator, Anne Gorsuch, consistently tried to weaken the Clean Air Act and the Clean Water Act as well as end the Superfund cleanups (Little 2004). Her cabinet colleague Interior Secretary James Watt went to extraordinary efforts to increase drilling, mining, forest cutting, and commercial use of federal lands and water. Watt and Gorsuch put a significant brake on the flood of new environmental initiatives and the enthusiasm for environmental protection that had dominated the 1960s and especially the 1970s. Greg Wetstone, then Director of Advocacy for the Natural Resources Defense Council, noted that "Never has America seen two more intensely controversial and blatantly anti-environmental political appointees than Watt and Gorsuch (ibid.).

President Reagan, in the name of reducing the cost and presence of the federal government, made significant reductions in EPA personnel, budget, and enforcement efforts. Gorsuch, claiming to be a follower of the "New Federalism" who would return responsibilities to the states, reduced the EPA budget by 22 percent before resigning under pressure after being cited for contempt of Congress.

The U.S. EPA had several very good administrators from both parties since that controversial period of cutback and weakened mission. However, they could not recapture the innovation,

enthusiasm, and level of broad bipartisan support that dominated the environmental protection efforts of the 1960s and 1970s. It was during this time that the idea of a strong intergovernmental system largely faded from existence.

Three Concluding Thoughts

America has always been a nation of innovation, experimentation, and change. Over the years, we change as we debate the role of the private sector versus government, or of individual rights versus collective norms, or of the role of the national government versus the states. In this time of extraordinary social, economic, demographic, and political change both in the United States and around the world it should not be a surprise that our federal arrangement and our intergovernmental system will adapt and be modified. It must do so.

As Mavis Mann Reeves and I noted 40 years ago in *Pragmatic Federalism*:

The most dominant pattern emerging from intergovernmental change is that of pragmatic intergovernmental relations within the federal system—a constantly evolving, problem-solving attempt to work out solutions to major problems on an issue-by-issue basis, resulting in modifications of the federal and intergovernmental systems . . . The very elasticity of the arrangement helps to maintain the viability of the American system.

(Glendening and Reeves 1977: 21).

Individually we may not like the direction of current changes in our system of governance. Or, indeed, we may applaud them. Many individuals and groups will welcome less government, hoping that means less taxes, and/or more functions transferred to the state level. Others will call for a stronger collective intervention by the national government, with its greater revenues and powers. This on-going debate is a reflection of the political system dealing with the great challenges of the day.

The magnitude of the 2016 election results notwithstanding, those changes are still being sorted out. One thing is certain. Our federal system will change dramatically during the course of the next decade or two.

Within this context, I advance three concluding thoughts about a state-centric federalism, the impact of the Trump Administration, and the need for an intergovernmental relations “think tank.” Brief references are made to some of the thoughtful “Big Questions” advanced earlier in this book.

State-Centric Federalism

There was a great expansion of the national government’s size and powers as the nation responded to the Great Depression and international wars during the more than two decades of the Roosevelt-Truman Administrations. The centralization pattern continued for more than 25 years through four presidencies: Eisenhower (interstate highway program), Kennedy/Johnson (Civil rights, Medicare/Medicaid, and the War on Poverty), and Nixon (EPA and major environmental laws). The centralization of these years was amplified by continuing international wars and crises (World War II, Korean and Vietnam wars, and the Cold War). The Ford/Carter years were relatively quiet transition years on the question of the role of the federal government.

The seismic shift in modern federalism started with President Ronald Reagan's New Federalism. His goals were straightforward: cut taxes; reduce federal spending; and return power to the states. As he stated clearly in his first inaugural address (1981):

It is my intention . . . to demand recognition of the distinction between the powers granted to the federal government and those reserved to the states or to the people . . . All of us need to be reminded that the federal government did not create the states; the states created the federal government.

(*CQ Researcher* 1981).

The four presidents following Reagan either did not want to expand the federal role or were constrained from doing so for fiscal reasons or by political opposition. Even a liberal chief executive like President Obama was limited in further expansion of the national government's role. His anti-Great Recession stimulus program (AARA) was tightly limited and rapidly phased out by a conservative Congress, and his health insurance initiative (Affordable Care Act) is still a matter of great debate. Neither had the centralizing impact of Roosevelt's New Deal.

These presidents were constrained in many ways by the "four d's" of debts, deficits, demographics, and defense. Barring a very unlikely major increase in federal revenues, this decentralization trend will continue.

Although he was probably elected for several other reasons, Donald Trump's presidency is a strong continuation of the same Reagan principles: reduce taxes and federal revenues; limit the size of government; and return powers and programs to the states. President Trump has shown no explicit awareness of the Constitutional arrangement or of the complexities of our intergovernmental system. His initial proposals, however, would continue significantly the movement to a state-centric federalism.

Both Presidents Reagan and Trump denied strongly that their efforts to return programs to the states was really an effort to reduce the role of government at all levels. Without additional major revenues, that is almost certain to be the outcome given the fiscal challenges that most states already face.

There will be other major changes in the intergovernmental system if some of the current Administration's proposals advance. Many environmental challenges, notably air and water pollution, do not recognize state boundaries. There will be increased state and local multi-jurisdictional efforts to solve these problems. Most immediately there has been a growth in collective resistance to many of these programs by state and local leaders. For example, eight Mid-Atlantic and Northeastern states have joined together to fight air pollution from nine Mid-Western states. Without successful EPA intervention, this will become a protracted legal and political battle for years to come. State and local governments are also organizing in a variety of coalitions to implement the Paris Agreement climate change provisions even if the national government does not do so.

Because of the intense debate on a number of major social issues, state-centric federalism will generate a range of new conflicts between the states and the federal government and between the states and their local governments. Note the battles over Sanctuary Cities, or the coalition of big cities trying to enforce the higher Paris Agreement environmental standards, or the efforts by many states to restrict local adoption of minimum wages that are higher than the state's.

State-centric federalism will have challenges with political, legal and fiscal battles to be sure. We should remember, however, as Mavis Reeves and I said 40 years ago: "In the long run it will

be the states' resilience and viability that will maintain the federal bargain and protect against excessive centralization" (Glendening and Reeves 1977: 323).

The Impact of the Trump Administration

The new Administration is a continuation of the decades long political movement for a state-oriented federal system and specifically to a smaller, less intrusive central government. At this early date, it is hard to tell the full, long term-impact of the Trump Administration. A series of political controversies, scandals, and apparent lack of knowledge about how the government process and especially the intergovernmental system work has hindered implementation of any of the President's campaign proposals. The changes in the tax system, the health program replacement, and the extraordinary infrastructure investments for which President Trump advocates would have a significant, even historic, impact on the federal and intergovernmental systems.

Certain impacts, however, are clear from the President's early actions. The new Administration has moved to repeal many of the environmental regulations and to end or reduce many EPA programs. His opposition is based on the same view that Ronald Reagan had about a relationship between these regulations and jobs. As President Trump has stated repeatedly: "I will cancel job-killing restrictions on the production of American energy, including shale energy and clean coal, creating millions of high-paying jobs" (Washington Post 2016).

Further echoing President Reagan's appointments of Anne Gorsuch as EPA Administrator and James Watt to head the Department of the Interior, President Trump appointed Ryan Zinke to be Interior Secretary and Scott Pruitt to be EPA Director. Both are climate change deniers, although each of them modified their positions during Senate confirmation hearings. When asked on CNBC about the relationship of carbon dioxide increasing global warming, Mr. Pruitt responded: "I think that measuring with precision human activity of the climate is something very challenging to do and there's tremendous disagreement of impact, so, no, I would not agree that it's a primary contributor to the global warming that we see" (New York Times 2017). Secretary Zinke has advocated for energy development and mining on public lands and waters as well as further commercial development of federal lands.

Both appointments and the changes they are implementing, especially at the EPA, are already having impacts. States and even whole regions are increasingly pitted against others based on coal burning plants' impact on their states water and air quality. They have generated considerable partisan battles over the wisdom of moving away from environmental protection enforcement. The level of community and political activism around the issue of protecting the environment has not been this strong and widespread since the 1960s and 1970s.

Some states and local governments have vowed to move on their own to continue those protections. Just days after the U.S. withdrew from the Paris Agreement, an alliance of states and local governments announced that they would continue to meet the goals of the Agreement. Former New York Mayor Michael Bloomberg, speaking in Paris after meeting with French President Macron, said: "The American government may have pulled out of the agreement, but the American people remain committed to it—and we will meet our targets" (Los Angeles Times 2017).

Another impact is occurring in the area of infrastructure funding, particularly for mass transit. The President has not yet advanced his often-touted huge new program for infrastructure investment. Preliminary discussions suggest it will not be good policy for state and local governments. Their representatives do not appear to be having any input to the program's early deliberations.

The politics of “no new taxes under any circumstances” appears to have paralyzed national efforts to invest in any meaningful way in new transportation infrastructure. The federal gasoline tax was last raised in 1993. Inflation from 1993 to 2015 was a little over a compounded 64.6 percent, greatly reducing the buying power for the Transportation Fund. States are increasingly moving on their own in this area. Twenty-nine states have legislatively increased the gas tax or otherwise raised new fees to support their transportation needs. In addition, there has been a surge in support for local referenda to raise new taxes for mass transit. For the last decade, the approval rate for these referenda has been just under 80 percent. In the 2016 election, when the President was running on a reduced taxes approach, voters approved \$200 billion in local tax increases for transit; \$150 billion of that amount was for Seattle and Los Angeles. The latter voted 70 percent in favor of an additional half a cent sales tax on top of the half a cent already used for transit. These approvals are taking place in Republican dominated states as well. Atlanta, Raleigh (Wake County), and Indianapolis voted to increase local taxes to support transit. Ironically, the Indianapolis vote for a local income tax increase was authorized by legislation signed by now Vice President Pence (Davis 2016).

The bottom line is that many state and local governments are moving forward in transportation and especially transit funding as the national government remains paralyzed by a rigid anti-tax philosophy, a strong anti-transit bias, and an excess of partisan rhetoric. An informal “divide the job” systematically as proposed by President Reagan in 1981 may be incrementally taking place now. Unfortunately, there is no real on-going discussion about the intergovernmental impact of this change.

Lastly, it is important to note that while we do not know the details of President Trump’s proposed tax cuts, every indication is that it will further the income inequity in America, especially if combined with some of the proposed health care changes. States will not be able to respond in an effective way with changes to their tax codes. Therefore, the most likely solution will be a surge in efforts to increase minimum wages, family leave, etc. This will produce another round of preemption battles as conservative state governments try to block more progressive urban areas from making these changes.

Need for an Intergovernmental Relations Think Tank

As I think through the events of this chapter, I find it necessary to reaffirm a call I made several years ago for the creation of an intergovernmental relations Think Tank (Glendening 2013). While America faces some very serious challenges, we are a strong country. The solutions to many of these challenges are for all of us—citizens, policy and academic leaders, and elected officials—to pull together in a cooperative, intergovernmental, and less partisan approach.

The second part of the solution is to remember that we are a federal system dependent on a smoothly functioning intergovernmental system. Proposed policies, debates, and deliberations and implementation must all recognize the intergovernmental nature of our governance system. As the National Academy of Public Administration memorandum cited above concluded:

In order to strengthen the federal system emerging needs for public services and public deficits must be addressed; intergovernmental tax reform should be undertaken in a collaborative manner; a means to an institutional framework for the improvement of intergovernmental policy must be initiated; and much work must be done to rationalize that system.

(Rosenbaum, Glendening, Posner and Conlan, 2013)

To the last couple of points, it has been recommended in several recent reports that we backfill with advisory panels and organizations that are intergovernmental in nature, maybe even create a new Advisory Commission on Intergovernmental Relations. I strongly recommend, however, that it be outside of government—not even a quasi-governmental agency. It should be an independent, freestanding “think tank” similar to the Cato Institute or the Brookings Institution, or based at a major university or a consortium of universities.

As an eternal optimist, I affirm that we are a strong nation. We will solve our problems. We have collectively faced bigger challenges in the past than those before us now. We faced those challenges and emerged an even stronger country.

We will best do so, however, if we remember that we are a federal system and depend on a smooth functioning intergovernmental system.

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